IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

REVIEW PETITION LD. NO.42 OF 2000
IN
WRIT PETITION NO.1983 OF 1997

Shri Swamidurai Sundershan. ...Petitioner.
Vs.
The Union of India & Ors. ...Respondents.
....
Mr. D.V. Gangal for the Petitioners.
Mr. J. J. Pandian for the Respondents.
.....

CORAM : DALVEER BHANDARI, C.J. &
DR.D.Y.CHANDRACHUD, J.

October 28, 2004.

P.C.:

Writ Petition No.1983 of 1997 sought to question the correctness of an order dated 18th September 1997 passed by the Central Administrative Tribunal. The aforesaid order was passed upon a difference of opinion between two members of the Tribunal. The third member, in his order dated 18th September 1997, inter alia, held that the Review Petitioner had not been able to produce any material on the record to show that the job of an Open Line Mate was the same as that of a Mate on the construction line so as to attract the application of the doctrine of equal pay for equal work.

The Writ Petition challenging the final order of the Tribunal was dismissed by a Division Bench of this Court consisting of Chief Justice M. B. Shah (as the Learned Judge then was) and Mr.Justice A.Y. Sakhare with the following observations :

> "In our view, considering the affidavit in reply, it is apparent that the Petitioners were working as Khalasis and not as Gang Mates Construction and, therefore, the order passed by the Tribunal does not call for any interference."

2. In the Review Petition, it has, inter alia, been sought to be contended that the statement of the Respondents in the affidavit to the effect that the Applicant was working as a Khalasi is false. In the affidavit in reply to the Review Petition filed Shri Ashutosh Gupta, Deputy Chief Engineer (Construction), it has been stated in para 5 that on 31st March 1997, 52 persons including the Petitioner were posted as Khalasis in the grade of Rs.750-940. In the affidavit filed by the authorities before the Division Bench on 16th March 1998, it was, therefore stated that the Review Petitioner joined the service of the Railways as a casual labourer/mate on

31st December 1981; that he was granted temporary status on 1st January 1984 and that he was absorbed as a Khalasi on a permanent basis on 31st March 1997. The Review Petitioner had challenged the said order before the Central Administrative Tribunal, in Original Application No.771 of 2001, which was rejected on 29th May 2002 and an application for review was also dismissed on 6th July 2004. In the affidavit in reply, it has also been stated that there is a clear distinction between the duties and responsibilities of Mates in the Construction Organisation and in the Open Line Organisation of the Railways, in that the Mates in the Construction Department are involved in laying down or construction of new railway lines and diversion of railway lines or modification of track and bridge works etc., whereas Mates in the Open Line Organization are mainly involved in maintaining railway tracks for which they are specially trained and their channels of promotion are different. Reliance has been placed on the Manual containing Duties of Permanent Way Officials and it has been stated that the posts of Gangmate operated in Open Line track are safety category posts for which Mates/Keymen/Gangmen in the Open Line Organisation are specially trained in maintaining the railway tracks and their duties are specially defined in the Manual.

3. We do not find that any ground has been made out to review the order passed by the Division Bench. There is no error apparent and none of the grounds on which a review can be entertained are made out. Having heard Learned Counsel for the parties and having perused the affidavit in reply to the Review Petition, we are of the view that the order of the Court does not call for the exercise of the jurisdiction in review. The Review Petition is accordingly dismissed.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.